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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

EXAMINER

NGUYEN, DAVID Q

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2617

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,250

Applicant(s)

GORTZ ET AL.

Examiner

David Q. Nguyen

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-12, 14, 15, 17-29 and 85 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-12, 14-15, 17-29 and 85 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-7, 9-12, 14-15, 17-29 and 85 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7,9-12,17-22, 24-29 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Valentine (US 2004/0208297 A1) in view of Lai et al. (US 2007/0006327 A1).

Regarding claims 1 and 85, Valentine discloses a mobile electronic device and apparatus, comprising a storage to store digital content (see par. 0043) and processor being configured to edit and change said stored digital content (see par. 0011), a component to obtain data provided from a sensor (see par. 0013) wherein said processor is configured to generate and/or process said digital content according to said obtained sensor data (see par. 0013). Valentine does not disclose wherein said stored digital content comprises digital picture/video data. However, Lai et al disclose a stored digital content comprises digital picture/video data (see pars. 0006-0010 and 0084). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Lai et al to the mobile station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality.

Regarding claim 19, Valentine discloses a method, comprising storing in a storage device digital content (see par. 0043, recording a voice message or text message); editing and changing with a processor said stored digital content (see par. 0011); obtaining data from a sensor (see par. 0013), and generating/processing digital content stored on a mobile electronic device in accordance with said data obtained from said sensor (see par. 0013). Valentine does not disclose wherein said stored digital content comprises digital picture/video data. However, Lai et al disclose a stored digital content comprises digital picture/video data (see pars. 0006-0010 and 0084). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Lai et al to the mobile station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality.

Regarding claim 29, Valentine discloses computer program product with a program code, which is stored on a computer readable medium for carrying out a method comprising storing in a storage device digital content (see par. 0043, recording a voice message or text message); editing and changing with a processor said stored digital content (see par. 0011); obtaining data from a sensor (see par. 0013), and generating/processing digital content stored on a mobile electronic device in accordance with said data obtained from said sensor (see par. 0013), when said computer program is run on a network device or a mobile computer device (see abstract). Valentine does not disclose wherein said stored digital content comprises digital picture/video data. However, Lai et al disclose a stored digital content comprises digital picture/video data (see pars. 0006-0010 and 0084). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Lai et al to the mobile

station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality.

Regarding claim 2, Valentine also discloses the mobile electronic device comprising a communication device (see par. 0010).

Regarding claims 3 and 21, Valentine also discloses the mobile electronic device, wherein said digital content to be edited comprises an announcement message contained in a mailbox of said mobile electronic device (see pars. 0011-0013).

Regarding claim 4, Valentine also discloses wherein said processor is configured to generate and/or process a basic announcement of said mailbox automatically according to said obtained sensor data (see pars. 0011-0013).

Regarding claim 5, Valentine also discloses the mobile electronic device comprising further comprising a text to speech transducer, to read out said announcement stored as a text data file (see pars. 0013 and 0043).

Regarding claim 6, Valentine also discloses wherein said communication device is a mobile telephone (see par. 0010).

Regarding claim 7, Valentine also discloses wherein said stored digital content comprises digital audio data (see par. 0043).

Regarding claim 9, Valentine also discloses said stored digital content comprises digital text data (see par. 0043).

Regarding claim 10 Valentine also discloses said processor configured to evaluate said obtained sensor data (see par. 0010).

Regarding claim 11, Valentine also discloses wherein said component to obtain sensor data comprises a receiver (see par. 0009-0010).

Regarding claim 12, Valentine also discloses wherein said component to obtain sensor data comprises at least one sensor built-in in said mobile electronic device (see par. 0011).

Regarding claim 17, Valentine also discloses said processor being configured to change device settings according to said obtained sensor data (see pars. 0011-0013).

Regarding claim 18, Valentine also discloses the mobile electronic device comprising a user interface configured, for allowing a user to manually override said generating/processing (see fig. 5 and par. 0015 and 0053).

Regarding claim 20, Valentine also discloses receiving a communication request (see par. 0011).

Regarding claim 22, Valentine also discloses evaluating said data obtained from said sensor, and wherein said generating/processing of said digital content is done in accordance with a result of said evaluation operation (see par. 0010).

Regarding claim 24, Valentine also discloses transmitting of said changed digital content (see par. 0027).

Regarding claim 25, Valentine also discloses changing of device settings in accordance with said sensor data (see par. 0013-0015).

Regarding claim 26, Valentine also discloses manually editing said digital content by user input (see pars. 0024 and 0049).

Regarding claim 27, Valentine discloses using a software tool having a program code that is run on a computer device or the mobile electronic device (see explanation in claim 19).

Regarding claim 28, Valentine discloses using a computer program having program code that is run on a mobile computer or network device (see explanation in claim 19).

3. Claims 14 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Valentine (US 2004/0208297 A1) in view of Lai et al. (US 2007/0006327 A1) and further in view of Umeda et al. (US 2002/0150228 A1).

Regarding claim 14, the mobile device of Valentine in view of Lai et al. does not disclose wherein said sensor is a position sensor. However, Umeda et al disclose wherein said sensor is a position sensor (see par. 0084). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Umeda to the mobile station of Valentine in order to forward the call to another phone number where the intended call recipient is presently located.

Regarding claim 23, the method of Valentine in view of Lai et al. does not disclose receiving sensor data from an external sensor. However, Umeda et al disclose receiving sensor data from an external sensor (see pars. 0006-0010 and 0084). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Umeda to the mobile station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Valentine (US 2004/0208297 A1) in view of Lai et al. (US 2007/0006327 A1) and further in view of Rhoads et al. (US 2005/0213790 A1).

Regarding claim 15, the mobile device of Valentine in view of Lai et al. does not disclose wherein said sensor is an optical sensor. However, Rhoads discloses a mobile phone comprising

an optical sensor (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Rhoads et al. to the mobile station of Valentine in order to provide appropriate service to user based on detecting a change in an environment such as transmission quality.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q. Nguyen whose telephone number is 571-272-7844. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bost Dwayne can be reached on (571)272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David Q Nguyen/
Primary Examiner, Art Unit 2617